THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 15795 OF 2006

DATED: 12-10-2007

Between:-

Y. Appalaswamy .

…Petitioner

And

Sub-Collector Tekkali, Srikakulam District and three others.

..Respondents

THE HONOURABLE SRI JUSTICE P.S. NARAYANA

W.P. NO. 15795 of 2006

O R D E R

Heard the counsel on record.

2. This Court issued Rule Nisi on 31-07-2006 and made an order of interim suspension in W.P.M.P. No. 19690 of 2006.

3. The writ petition is filed for a Writ of Mandamus declaring the order passed by the 3rd respondent in revision case D. Rc. 129/2006 dated 15-05-2006 (SRR No. 30/2005) dated 15-05-2006 dismissing the revisions petition and confirming the order of the 2nd respondent in DDs 611/2005 S2 (SRA No. 25/2003) dated 03-09-2005 as illegal, null, void and unsustainable and also violative of principles of natural justice and also provisions of A.P.S.P…D.S. Control Order, 2001 and A.P. Scheduled Commodities Dealers (Licensing and Distribution) Order, 1982 and consequently direct the respondents to permit the petitioner herein to work as F.P. Shop Dealer of Siddigam Mandasa Mandal, Srikakulam District in the interest of justice and equity and to pass such other appropriate orders.

4. It is stated by the petitioner that he is an educated unemployed and he was appointed as Fair Price Shop Dealer in respect of Siddigam village in 1994 and since then there was no complaint against him either from the cardholders or from the respondents herein and he has been discharging his functions as Fair Price Shop Dealer of Siddigam village as per law and without contravening any provisions of Order 2001 or Order 1982.

5. It is further stated by the petitioner that while matters stood, the 1st respondent herein issued a show cause notice to him in proceedings Rc. No. 2887/2002-A dated 20-12-2002 calling explanation from him on the ground that he had failed to produce Demand Drafts for 10/2002 as per route programme and accordingly he had submitted his explanation stating that he was sick from 01-10-2002 to 22-10-2002 and was under treatment at Primary Health Centre, Mandasa and he was discharged from the hospital on 22-10-2002 and immediately he had submitted the D.Ds for lifting stock of essential commodities allotted to his shop and there was no willful negligence on his part and that he requested the 1st respondent to drop all further proceedings against him and that the 1st respondent instead of dropping the action issued proceeding Correction in RC No. 841/2002-A dated 29-06-2003 cancelling his authorization of fair price shop dealership.

6. It is further stated that the order passed by the 1st respondent is unsustainable as it failed to consider his explanation and did not even mention in it about submission of his explanation in January, 2003, that the order of cancellation of 1st respondent states that one Sri Marapu Sriramulu and 24 others leveled against him and the Mandal Revenue Officer on the basis of enquiry conducted by Mandal Revenue Inspector submitted a report to the 1st respondent stating that the fair price shop dealer, Siddigam, totally failed in supplying the essential commodities to the consumers of Siddigam village and major irregularities were committed by F.P. shop dealer in distribution of essential commodities for every month and recommended for initiation of disciplinary action, that this order further refers to a show cause notice dated 28-05-2003 as given to him and it was served on him, that the order again refers to a second report dated 16-04-2003 said to have been submitted by Mandal Revenue Officer reporting that the fair

price shop dealer, Siddigam is not selling essential commodities properly and also not maintaining the scheduled times in opening the fair price shop and reported that neighbouing F.P. shop dealer was put in additional charge and recommend disciplinary action against the F.P. shop dealer, Siddigam and that basing on the two reports prepared by the Mandal Revenue Officer, the 1st respondent cancelled his authorization which is contrary to the provisions of Order 2001 and Order 1982.

7. It is further stated that he had filed an appeal to the Joint Collector, Srikakulam against the cancellation orders of the 1st respondent dated 29-06-2003 and that the 2nd respondent-Joint Collector dismissed the said appeal on 03-09-2005 confirming the order of the 1st respondent and aggrieved by the order of the 2nd respondent he filed a revision before the 3rd respondent and the 3rd respondent dismissed his appeal by his order dated 15-05-2006. It is further stated that the 3rd respondent did not discuss any point raised by him in the revision.

8. It is stated by the learned Assistant Government Pleader for Civil Supplies that it may be that appropriate reasons had not been recorded by the revisional-authorities, but the fact remains that the authorization itself is not subsisting, since no renewal had been prayed for by the revision-petitioner. However, it is contended by the counsel for the petitioner that this is not the ground on which the revision had been disposed of. Learned counsel also had drawn the attention of this Court to the grounds raised before the 3rd respondent and how the 3rd respondent had not considered any of the grounds raised by the petitioner.

9. In the counter affidavit filed by respondents 1 and 2, it is stated that the Mandal Revenue Officer, Mandasa had reported that the cardholders of Siddigam village have put in a representation leveling

certain allegations made against the regular F.P. shop dealer, Siddigam village of Mandasa Mandal and the contents of the said representation have been got enquired into and the enquiry revealed that the F.P. shop dealer has not distributed E.Cs properly and he misused the E.Cs for the month of March, 2003 and also he failed to inform the consumers regarding distribution of E.Cs and he failed to maintain timings fixed by the Government, that during the enquiry the cardholders of the F.P. shop expressed their dissatisfaction in distribution of E.Cs by the petitioner and requested to take action against him and that the irregularities committed by the Fair Price Shop dealer, Siddigam proved during the enquiry and accordingly the Mandal Revenue Officer, Mandasa had reported in his Rc. No. 18/2002 A dated 17-04-2002 reported for taking disciplinary action against the F.P. shop dealer. It is further stated that a show cause notice was issued in Rc No. 841/2002-A dated 290502992 to the petitioner calling for his explanation on the charges framed against him in time stipulated and it was served on 17.6.2002, but the petitioner has failed to submit his explanation even after receipt of the said show cause notice and thus the authorization of F.P. shop dealer was cancelled as the irregularities committed by him are proved, that aggrieved by the orders passed by the Revenue Divisional Officer, Tekkalai, the petitioner had filed an appeal before the Joint Collector, Srikakulam and the Joint Collector had dismissed the appeal stating that the grounds mentioned in the appeal petition are not valid and aggrieved by the orders passed by the Joint Collector, Srikakulam, the petitioner had filed a revision before the District Collector, Srikakulam and the District Collector had also rejected revision as the petitioner had not handed over the sales records to the office and not submitted the explanation to the show cause notice issued by the Revenue Divisional Officer. It is further stated that the petitioner filed this writ petition.

10. It is further stated that the F.P. shop dealer failed to distribute the essential commodities to the cardholders for the month of March, 2002, as such the cardholders deprived and report the fact to the Mandal Revenue Officer, Mandasa and in turn reported to the Revenue Divisional Officer, Tekkali to take disciplinary action and thus a show cause notice dated 29-06-2003 and it was served on the petitioner on 17-06-2002 and the fair price shop dealer neither submitted his explanation nor attended before the Revenue Divisional Officer, Teakkali to represent his case in person and the attitude shows that the petitioner willfully neglected and disobeyed the instructions on the part of the petitioner. It is further stated that the authorization of the petitioner was cancelled on the ground that he failed to distribute the essential commodities to the cardholders for the month of 3/2002 only. It is further stated that the enquiry Officer i.e. Mandal Revenue Officer, Mandasa and the Mandal Revenue Inspector-II, Mandasa conducted enquiry on 06-04-2002 at Siddigam village and it reveals that the F.P. shop dealer had not distributed commodities properly and he misused the E.Cs for the month of 3-2002 and at the time of enquiry the petitioner had not attended and the irregularities committed by him rightly proved and accordingly the Mandal Revenue Officer had recommended for taking disciplinary action against the F.P. Shop dealer and a show cause notice was issued by the Revenue Divisional Officer, Tekkali in Rc. No. 841/2002 dated 28.5.2002 and the same was served on the petitioner on 17.6.2002 and the petitioner neither submitted his explanation nor attended before the Revenue Divisional Officer, Tekkali to rebut the charges framed against him and thus the Mandal Rvenue Officer, Mandasa had submitted subsequent report in his Rc.No.19/2002-A dated 16.4.2003 basing on that the authorities of the petitioner was finally cancelled. It is not true that the contention of the petitioner said to be the show cause notice issued on 28.5.2002 of the Revenue Divisional Officer, Tekkali.

11. It is further stated that the Joint Collector, Srikakulam while rejecting the appeal of the petitioner in their order dated 03-09-2005 had stated that the petitioner had not filed any valid grounds against the orders passed by the Revenue Divisional Officer, Tekkali. It is further stated that the petitioner had not produced any documentary evidence in any manner before the 1st and 2nd respondents to substantiate his case through documentary evidence, that he willfully neglected his duties and deliberately disobeyed the instructions issued by the Mandal Revenue Officer, Mandasa and the Revenue Divisional Officer, Tekkali through the opportunity was given to him and that the Collector, Srikakulam after hearing the arguments in the matter had issued order dated 15.5.2006 rejecting the revision petition of the petitioner stating that he had not distributed the E.Cs to the cardholders for 3/2002 and the same was proved during the enquiry conducted in 4/2002 and that he had failed to submit the explanation to the show cause notice received by the Revenue Divisional Officer, Tekkali.

12. It is further stated that the distribution of essential commodities by the petitioner is not satisfactory and making troubles to the cardholders and the cardholders are very often complaining about not distribution of essential commodities and not maintained the records properly and failed to hand over the monthly cards and thus the very purpose of public distribution system is defeated by erring dealer and that he violated the condition contained in F.P. shop authorization due to above failures, a show cause notice was issued and served on him but he did not submit his explanation to defend his charges leveled against him and after one year final orders were passed canceling the authorization of the petitioner by the 1st respondent.

13. It is further stated that in the above circumstances, the prayer of the petitioner could not be considered as he had committed several irregularities in public distribution system, which were grave in nature

and permissible and the cardholders of the said fair price shop also express their dissatisfaction against the petitioner and hence the writ petition deserves no consideration and the same is liable to be dismissed.

14. In the light of the respective stands taken by the parties, and also having gone through the impugned order, the revisional authority while disposing of the revision is expected to go through the grounds and record the reasons before disposing of the revision. This Court satisfied that the 3rd respondent had not recorded any reasons, nor considered the grounds raised by the petitioner. It is also made clear that the revisional authority, the 3rd respondent, also is at liberty to consider the question whether the authorization as on today is subsisting or not and whether any further order to be passed in this revision, in the absence of any renewal having been obtained by the petitioner. Accordingly, the impugned order is hereby set aside and the 3rd respondent is hereby directed to dispose of the revision within a period of four weeks from the date of receipt of a copy of this order and till then the interim suspension granted by this Court to be operative. No order as to costs.

15. The writ petition is, accordingly, disposed of. No costs.

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P.S. NARAYANA, J

Dated: 12-10-2007
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